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THE WARREN REPORT

ANALYSIS OF SHOTS, TRAJECTORIES AND WOUNDS—A LAWYER'S DISSENTING VIEW

Arlen Specter, Esq., Assistant Counsel of the President's Commission on the Assassination of President Kennedy, was quoted by The Evening Bulletin of October 23, 1964, page 4, as follows: "The people are going to have to rely on the conclusions (that have been drawn) and the stature of the men on the Commission."

We know that Mr. Specter did not mean by the above statement that the Warren Commission was ever meant to be construed as a "ministry of truth." Nor would the members of the Commission, as public servants in a democracy, ever consider that their "stature" insulated their interpretations and findings from public criticism. Since we are all agreed on this score, we can now proceed to disagree.

Let us then, as lawyers, address ourselves to the evidence and findings of the Commission, limiting ourselves for the present to Mr. Specter's area of particular interest relating to the shots, their number, source or sources and trajectories. We will also look briefly into the subject of the wounds inflicted. Then we will scrutinize the Commission's conclusions that their evidence supports the propositions that three shots were fired by Lee Harvey Oswald alone from a bolt action 6.5m. Carcano rifle while he was stationed at a window on the sixth floor of the Texas School Book Depository Building. The Commission further concluded that the three shots caused all the damage at the assassination site and that the time span between the first and last shot which struck President Kennedy and Governor Connally was 4.8 to 5.6 seconds. These conclusions I commend to your scrutiny and urge that you relate them to the evidence of the Commission.

First, with reference to the source of the shots, it is not central to my

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thesis that the Warren Commission erred in determining that three shots came from the Book Depository Building. On the contrary, I am willing to concede for the purposes of this presentation that three shots did come from the Book Depository Building. But I will endeavor to prove that all the evidence of the Commission's Report points up that another shot or shots came from a source other than the Depository Building.

The following witnesses reported evidence indicating a source other than the Book Depository Building: Austin L. Miller on the railroad bridge thought the shots came from the Presidential limousine itself.[1] Frank E. Reilly, an electrician on the same bridge, heard three shots that seemed to come from the trees "on the north side of Elm Street at the corner up there."[2] S. M. Holland heard "four shots which sounded as though they came from the trees on the north side of Elm Street where he saw a puff of smoke."[3] Thomas J. Murphy said the two shots he heard "came from a spot just west of the Depository."[4] L. E. Bowers, Jr. said they came "either from the Depository Building or near the mouth of the Triple Underpass."[5]

Arlen Specter, Esq., stated that Senator Ralph W. Yarborough said he smelled gunpowder at the assassination site. Mr. Specter dismissed this as the function of "an overly active olfactory sense." He admitted that a Dallas police officer was reported to have smelled gunpowder 350 to 400 feet from the Depository Building immediately following the assassination shots. Mr. Specter did not comment on this.[6] If the smell of gunpowder was detectable at street level immediately after the assassination, then this would indicate a source of shots other than the sixth floor of the Book Depository Building.

So, the Commission ignored all of the above in so far as the evidence reveals auditory, visual and olfactory stimuli reception incompatible with the source of shots exclusively from the Book Depository Building. Needless to say, this aforementioned evidence does not rule out additional shots having been fired from the building in question. But it certainly supports the conclusion that one or more shots originated from the tree and fence area north of Elm Street.

Further support for the inference that at least one shot emanated from a source other than the Book Depository Building is the fact that James T. Tague was hit in the cheek by a bullet, or part of a bullet, which impact evidentally was the result of a ricochet from the "south curb of Main Street."[7] Tague "got out of his car to watch the motorcade from a position between Commerce and Main Streets."[7] Please take careful note that Tague was not on Elm Street, not on Main Street, but between Main and Commerce Streets "near the Triple Underpass."[8] From my view of the pictures, maps and exhibits of the Commission Report (let us except my personal inspection of the situs in Dallas) I conclude that the South curb of Main Street near the Triple Underpass was not in the line of fire with the presidential limousine traveling on Elm Street. Tague was about 1½ blocks from the building in question. But he was directly across from the tree and fence area on the north side of Elm Street from which so many witnesses reported the shots came. The Commission finds "The mark on the curb could have originated from the lead core of a bullet but the absence of copper precluded the possibility that the mark on the curbing section was made by an unmutilated military full metal-jacketed bullet such as the bullet from Governor Connally's stretcher."[9] The obvious deduction that this was a bullet fired from the north side of Elm Street, and that it came from a rifle which was different from the Carcano that the Commission described as the assassination weapon, is scrupulously avoided. The bullet smear on the curbing did not reveal a trace of the metal jacket which coated the bullet allegedly fired from the Carcano. This fact cries for the inference that the bullet which hit Tague was of a different type, made of lead and antimony, and sans copper. If such was the case, then more than one gun was firing on that fateful day, and more than one man was firing. My law school professors described such activity as pointing in the direction of a conspiracy. Such a conclusion is in accordance with the basic scientific law of parsimony which requires us to select as between two equally good explanations for an occurrence of a phenomenon, the simplest thereof.

Next, let us consider the number of shots. The Commission states, "It is possible that the assassin carried an empty shell in the rifle and fired only two shots with the witnesses hearing multiple noises made by the same shot. Soon after the three empty cartridges were found, officials at the scene decided that three shots were fired . . ."[10] So, therefore the Commission concedes that since only three shells were found, no more than three shots could have been fired from the vantage point of the sixth floor of the Depository Building. It suggests that maybe less than three were fired if the assassin brought in a discharged shell. In that event he would have fired only two shots on that day from that point. The Commission speaks as if their problem is perhaps one of superfluous shots which are not required to explain the carnage of that dreadful site. Examination of the Commission's evidence, however, indicates the opposite to be true. This reader is not satisfied that only three shots could possibly have raked that lead-spewn site on November 22, 1963.

Let us presently read G. A. Bennett's testimony with reference to the number of shots fired. "Secret Service Agent Glen A. Bennett, stationed in the right rear seat of the President's followup car, who heard a sound like a firecracker as the motorcade proceeded down Elm Street. At that moment Agent Bennett stated:

"I looked at the back of the President. I heard another firecracker noise and saw that shot hit the President about four inches down from the right shoulder. A second shot followed immediately and hit the right rear of the Presidents' head." [11]

The Report goes on to explain "Substantial weight may be given Bennett's observations" because "he recorded what he saw and heard at 5:30 p.m. November 22, 1963, on the airplane en route back to Washington." [12] According to Bennett, then the first shot missed.

The Commission discussed other evidence to indicate the first shot did not miss. Then the Report goes completely awry. "If the first shot did not miss, there must be an explanation for Governor Connally's recollection that he was not hit by it. There was conceivably a delayed reaction between the time the bullet struck him and the time he realized that he was hit . . ." [13] Conceivably Governor Connally had a delayed reaction to realizing he was hit, but Abraham Zapruder's motion picture frames taken at the assassination scene did not register subjective findings. These frames recorded what actually happened and not what was subjectively felt. These films show, according to Governor Connally's own viewing, that the Governor's body reacted some 6-9 frames later than that of the President at frames 231 to 234.[14] The President's body showed reaction at frame 225.[15] According to photographer, Phillip L. Willis, he "snapped a picture at a time which he also asserts was simultaneous with the first shot. Analysis of his photograph revealed that it was taken at approximately frame 210 of the Zapruder film which was the approximate time of the shot that probably hit the President . . ." [16] Therefore according to Willis' photograph, the President was hit at frame 210 of the Zapruder film, or some 21 to 24 frames before Governor Connally's body seems to react. Some 1.04 to 1.31 seconds after the President's body reacted, Governor Connally indicate that he was hit.

[17] we are to assume that the Commission is correct in stating that the President's body was seen to react at Zapruder frame 225, and that he was hit at this point, then the Governor's body reacted from 6-9 frames later than when the President was hit. At 18.3 frames per second, this would be translated into the time period of 0.34-0.49 seconds. These films record that the Governor's body reacted 0.34-0.49 seconds after the President's body reacted. This interval is, as is the interval recorded by photographer Willis of 1.04 to 1.31, **below the minimum firing time of 2.3 seconds necessary to** operate the rifle. This 2.3 seconds was the top accomplishment of the Commission's marksmen, at stationary and not moving targets, which feat was only accomplished once and then never again approached by the Commission experts.[17] Lt. Col. A. G. Folsom Jr., head, Records Branch, Personnel Department, Headquarters U.S. Marine Corps, evaluated Oswald's marine shooting ratings as indicating a "fairly good shot" (sharpshooter qualification) and as a "rather poor shot" (low marksman rating).[18] Naturally, both 0.34-0.49 and 1.04-1.31 second intervals represent time periods far above the maximum time of the bullet in transit from the President to the Governor.

Irrespective of Governor Connally's reaction time, the Zapruder films should show the Governor's body conforming to the simple law of physics which requires that every action have an equal reaction. If Governor Connally did not have any nervous system at all, his body would have had to react immediately when pierced with a rifle bullet from back to chest which projectile exited at the speed of 1500 feet per second.[19] The Governor's body did not register any lurch when the first bullet struck the President. As a matter of fact, the Commission asks us to believe that the Governor executed a turn completely around to the right, and then partially to the left, after he had been struck with at least one bullet in the back, through the right nipple, right wrist and left thigh.

The Governor's body did not react immediately after the President's body reacted. Therefore, he was not hit by the same bullet that hit the President. The Commission would have us believe that Governor Connally was wrong,[20] his wife was wrong,[21] the F.B.I.'s initial findings were wrong; all the eye witnesses were wrong (none contradicted the Governor's recollection); the Zapruder films were wrong, and that there is no law of physics called action and reaction.[22] Governor Connally was not hit by the first bullet to hit President Kennedy. All of the above-mentioned evidence is against it.

See how weak the following testimony is in support of the Commission's proposition that the first bullet to hit the President also hit the Governor: "Dr. Frederick W. Light, Jr., the third of the wound ballistics experts . . . testified that the anatomical findings were insufficient for him to formulate a firm opinion as to whether the same bullet did or did not pass through the President's neck first before inflicting all the wounds on Governor Connally." [23] The Commission further states, "The alinement of the points of entry was only indicative and not conclusive that one bullet hit both men." [24]

If Governor Connally was not hit by the same first bullet to hit the President, then the Government's case is destroyed. The Government admits one shot missed.[25] A separate shot removed the back of the President's head.[26] This would constitute a minimum of four shots and would put the Government's theory that only three bullets were fired out of business. The explanation that the President and the Governor were first hit by different shots conforms to the "substantial majority of the witnesses (who) stated that the shots were not evenly spaced. Most witnesses recalled that the second and third shots were bunched together . . ." [27] Governor Connally said he was hit at a point corresponding to frames 231 to 234 of the Abraham Zapruder films. If, as the Commission states, the President was hit no later than at frame 225, then this would in-

dicate two separate shots hitting close upon one another. Since they were fired within 6 to 9 frames of one another, or according to photographer Willis 21 to 24 frames of one another, this represents a time interval of from 0.34 to 1.31 seconds. This time gap is insufficient to allow firing from the same bolt-action rifle and therefore points to the existence of another marksman. Needless to say, the majority view of the spectators that the last two shots were bunched, militates against a single carbine, bolt-action weapon doing all the firing. The time period between the first hit on the President and the final hit on him is not greater than 5.6 seconds according to the Commission's own findings. "As previously indicated, the time span between the shot entering the back of the President's neck and the bullet which shattered his skull was 4.8 to 5.6 seconds." [29] Therefore, 5.6 seconds being the longest time span, if there were two hits on the President and one separate hit on Connally, there could not have been any bunching of two shots since the once-accomplished 2.3 seconds minimum firing time could not permit bunching.

The Commission tries to have Connally nailed with the same bullet that struck the President. If logical fallacies were bullets, the job would have been done cleanly. Here is the reasoning, "The bullet that hit President Kennedy in the back and exited through his throat most likely could not have missed both the automobile and its occupants. Since it did not hit the automobile, Frazier testified that it probably struck Governor Connally." [30] But that argument assumes as proven, that which the Commission had not proven, to wit, that no other marksman was firing from any vantage point other than the Book Depository Building. A shot from the tree and fence area above the grassy knoll on the north side of Elm Street would account for a shot passing through the President and not striking the car in a flatter trajectory. This simple explanation, which conforms to logic, geographical facts and trajectory, is never considered by the Commission.

Additional evidence to the effect that there were more than three shots fired can be deduced from the testimony of the following: Royce G. Skelton, who was on the railroad bridge, thought that there had been a total of four shots, either the third or fourth of which hit in the vicinity of the underpass." [31] Dallas Patrolman J. W. Foster, who was also on the Triple Underpass, testified that shot hit the curb near a manhole cover in the vicinity of the underpass." [32] James T. Tague, as previously mentioned, was struck in the cheek by a missile.[33] These three witnesses could well be accurately recording separate shots missing their target. From all the above, I deduce that more than three shots were fired from more than one rifle.

In addition to the hard fact of the hitting of Tague, and the bullet strike in the curbing, we have in the Presidential limousine "the cracking of the windshield and the dent on the windshield chrome." [34] Where these hits came from is never explained satisfactorily by the Commission.

Finally, let us discourse briefly on the trajectory as revealed by the wounds. Assistant Professor of Surgery Robert N. McClelland, M.D. of Parkland Hospital stated that "cause of death (president) was due to massive head and brain injury from a gunshot wound of the left temple." [35]

You will recall that Secret Service Agent Glen A. Bennett, stationed in the right rear seat of the President's followup car saw a "shot hit the President about four inches down from the right shoulder." [36] "An examination of the suit jacket worn by the President by F.B.I. Agent Frazier revealed a roughly circular hole approximately one-fourth of an inch in diameter on the rear of the coat, 5¾ inches below the top of the collar and 1¾ inches to the right of the center back seam of the coat." [37] "The shirt worn by the President contained a hole on the back side 14 inches below the top of the collar and 1¼ inches to the right of the middle of the back of the shirt." [38] "The tie had a nick on the side of the knot." [39] The Commission would have us believe that a trajectory of a bullet from the sixth story downward would hit the President four inches from the right shoulder, or 5¾ inches from the top of his short collar, and ranging upward emerge from his neck tie knot without having hit any bones. This proposed trajectory of down and then up fails to comport with a sixth-floor shot, and if possible at all, must have been fired from a lower level. Further they ask that this same bullet which exited flying upward after not hitting any bone in the President [40] then changed direction in mid-air and coursed downward striking the Governor in the back, chest, right wrist and left thigh.[41]

When I suggested to Arlen Specter, Esq. on the 22nd of October, 1964 that the Commission owes it to the public to enact the alleged performance of Oswald with a rifle on moving targets, he asked whether I would have them [illegible] on ears which detect no humor in murder. I insisted that the moving target could convey dummies. Mr. Specter then complained that the traffic conditions were terrible around the Book Depository Building. I explained to him that the conditions could be duplicated with a tower and an open field. To this he made no reply.

Having read the Report, I conclude that the evidence offered by the Commission indicates there was more than one rifleman firing on November 22, 1963. There were more than three shots. If Oswald was one of the gunmen, then with that gun, from that vantage point, in that timespan, suggested by the Commission, he could not have been alone in the performance of the terrible work that destroyed our President and wounded two other men.

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